

# **IOWA DISTRICT COURT, FIFTH JUDICIAL DISTRICT**

## **IN RE DESIGNATION OF SMITH LAW CENTER COURTROOM AS A PLACE OF HOLDING COURT IN POLK COUNTY**

**ADMINISTRATIVE ORDER 2009-4**

Pursuant to the terms and conditions of the January 1, 2009 Memorandum of Understanding between Polk County, Drake University Law School and the Fifth Judicial District of Iowa, the Polk County Board of Supervisors adopted a Resolution on December 30, 2008 designating the Neal & Bea Smith Law Center Courtroom as a place maintaining space for the District Court in Polk County pursuant to Iowa Code §602.1303(1)(a) for January 1, 2009 through December 31, 2012. Copies of said Memorandum of Understanding and Resolution are attached hereto and incorporated herein by reference.

**NOW, THEREFORE, IT IS HEREBY ORDERED** the Chief Judge of the Fifth Judicial District hereby designates the Neal and Bea Smith Law Center Legal Clinic Courtroom as an official place of holding court pursuant to Iowa Code §602.6105 for the specified time period.

**IT IS FURTHER ORDERED** the Chief Judge may assign cases filed in the Polk County, Iowa District Court for trial in the Smith Law Center Courtroom for the Drake University Law School Trial Practicum.

**IT IS FURTHER ORDERED**, when adequate courtroom space is unavailable in the Polk County Courthouse on an occasional basis, the Chief Judge may assign Polk County cases for trial in the Smith Law Center Courtroom according to the specific terms and conditions of the January 1, 2009 Memorandum of Understanding.

Dated this 13 day of January 2009.

  
ARTHUR E. GAMBLE, CHIEF JUDGE  
FIFTH JUDICIAL DISTRICT OF IOWA

**Copies to:**

Chief Justice Marsha K. Ternus, Supreme Court  
Justice Michael J. Streit, Fifth District Justice Liaison  
All Fifth Judicial District Judges  
Elizabeth J. Baldwin, 5<sup>th</sup> District Court Administrator  
Craig Redshaw, District Finance & Personnel Manager  
Anne Sheeley, Assistant District Court Administrator  
Billie Ramey, Assistant District Court Administrator  
All Fifth Judicial District Case Coordinators  
David Boyd, State Court Administrator  
Peggy Sullivan, Director of Finance/Personnel  
Tom Hockensmith, Polk County Board of Supervisors Chairperson  
Dr. Russell E. Lovell II, Drake University Law School

FILED  
POLK COUNTY, IA.  
2009 JAN 13 AM 11:28  
FIFTH JUDICIAL DISTRICT COURT



Memorandum of Understanding  
Drake University Law School and  
Polk County, Iowa in conjunction with  
The Fifth Judicial District, State of Iowa

The Center for Public Service Attorneys in the Neal & Bea Smith Law Center has a courtroom dedicated for the training of public service attorneys and Drake law students. The First-year Trial Practicum is an important component of the educational experience for each Drake law student. Each academic year, through collaboration with the Fifth Judicial District (and the U.S. District Court), an actual jury trial is moved from the Polk County Court House (or the Federal Court House) and the trial is conducted in the courtroom of the Smith Law Center. The Drake University Law School and the Fifth Judicial District are very pleased with cooperation and collaboration that have enabled a state court jury trial to be conducted during six of the past seven years. Each trial has met the justice system's goals as to fairness and impartiality, and each has provided an exceptional educational experience for Drake law students.

In recent years, on a limited number of occasions when there was an insufficient number of court rooms at the Polk County Court House to accommodate all cases scheduled for trial, Drake University Law School has made the Smith Law Center court room available for use by the Fifth Judicial District without charge. The academic programming in the Smith Law Center court room varies in intensity during the academic and calendar years, such that there are times when the courtroom can be made available without disruption to the Law School's academic programs. When such underutilization occurs, it is consistent with the Smith Law Center's and Law School's mission to permit use of the Smith Law Center court room by the Fifth Judicial District.

The Drake University Law School and the Fifth Judicial District are desirous of continuing the agreement whereby the Chief Judge will designate the Smith Law Center (SLC) courtroom as a place to hold court in Polk County, pursuant to Iowa Code §602.6105, thereby enabling the Court to schedule cases for the SLC court room the week of the Trial Practicum and on other occasions throughout the year. Drake Law School will agree to make the SLC courtroom available to the Fifth Judicial District on a limited basis to handle occasional overflow situations. Subject to the following terms, the Drake Law School Legal Clinic will continue to make a good faith effort to accommodate requests for SLC court room utilization from the Fifth Judicial District, with the understanding Drake University's programming needs and obligations and the academic mission of the court room will continue to be given priority.

Drake University will retain full control and authority over the SLC courtroom. This agreement does not require Drake to reschedule classes, events, or programs to accommodate a request from the Court. In each instance, the Fifth Judicial District will contact designated Drake Legal Clinic personnel to request use of the courtroom and to determine whether a proposed trial can be scheduled so that it will not interfere with the university or law school academic programming. Five trials (not to exceed twenty-five



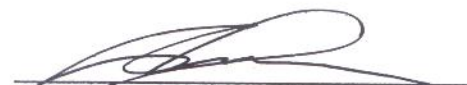
days) per calendar year, including the trial held at the Smith Law Center courtroom for the annual Trial Practicum, are envisioned as the maximum that will be conducted over the course of each calendar year, 2009 ~~and~~ 2012, in the Smith Law Center courtroom.

The Fifth Judicial District will provide the necessary court personnel and staff to schedule, coordinate, and conduct the trial. For calendar years 2009 ~~and~~ 2012, Drake University will make no charge to Polk County, Iowa for use, maintenance, and other costs associated with conducting these trials in the Smith Law Center courtroom.

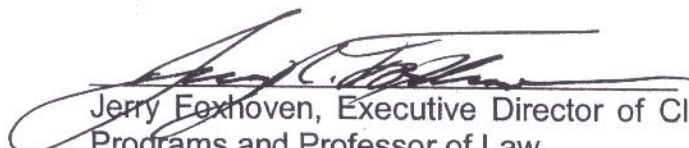
As in the past, the Fifth Judicial District and Drake Law School will work with litigants and counsel in an effort to secure consent to scheduling cases to be heard at the SLC court room for the First-Year Trial Practicum educational experience. It is recognized that settlement or postponement of the cases in which consent has been obtained may, nonetheless, result. In such a situation, the Fifth Judicial District will give scheduling priority to the SLC courtroom for other pending cases to ensure to the best of its ability that a jury trial case will occur for the Trial Practicum.

This agreement is effective January 1, 2009, and will terminate December 31, 2012, at which time it will be reviewed and its renewal subject to agreement by the parties.


Date: 12/10/08

  
Benjamin B. Ullem, Dean  
Drake University Law School


Date: 12-10-08

  
Jerry Foxhoven, Executive Director of Clinical  
Programs and Professor of Law

Date: 12/30/08

  
Angela Chaff, Vice-Chairperson  
Polk County Board of Supervisors

Date: 12/18/08

  
Hon. Arthur E. Gamble, Chief Judge  
Fifth Judicial District

Date: 12-11-08

  
Elizabeth J. Baldwin, Court Administrator  
Fifth Judicial District

## RESOLUTION

**MOVED** by Brownell **SECONDED** by Giovannetti  
that the following Resolution be adopted:

**WHEREAS**, the Fifth Judicial District of Iowa has expressed that there is an occasional need for additional courtroom space, which can be accommodated through the use of the courtroom at Drake University Law School's Neal and Bea Smith Law Center, and

**WHEREAS**, Drake University Law School is desirous of providing courtroom space on a limited basis at no cost to the Court or Polk County, and

**WHEREAS**, the county Board of Supervisors are responsible for providing suitable courtrooms for the district court, pursuant to Iowa Code Section 602.1303 (1)(a), and

**WHEREAS**, all parties are agreeable to the attached Memorandum of Understanding providing for a four-year extension of the previous agreement with the change in terms of no cost to the Court or Polk County, and continuing the terms that the Fifth Judicial District may schedule up to five trials per year, not to exceed twenty-five days annually, including the annual Trial Practicum, effective January 1, 2009 through December 31, 2012 for the use of the courtroom at the Neal and Bea Smith Law Center.

## POLK COUNTY BOARD OF SUPERVISORS

Angela Connolly  
Vice Chair

### SUBMITTED BY:

Sue Elliott  
Sue Elliott  
Project Manager

### APPROVED AS TO FORM:

27 B. O' Tera  
Michael O'Meara  
Assistant County Attorney, Civil Division

FY08/09 #

Fiscal Impact: No expense to County.

ROLL CALL FOR ALLOWANCE		
DEC 30 '08		
E.J. Giovannetti	<input checked="" type="checkbox"/> Yea	<input type="checkbox"/> Nay
Robert Brownell	<input checked="" type="checkbox"/> Yea	<input type="checkbox"/> Nay
Angela Connolly	<input checked="" type="checkbox"/> Yea	<input type="checkbox"/> Nay
Tom Hockensmith	<input checked="" type="checkbox"/> Yea	<input type="checkbox"/> Nay
John F. Mauro	<input checked="" type="checkbox"/> Yea	<input type="checkbox"/> Nay
Yea	<u>5</u>	Nay <u>0</u>
Above tabulation made by <u>BD</u>		
ALLOWED BY ABOVE VOTE OF BOARD		

Angela Connolly VICE CHAIRPERSON

#26



# POLK COUNTY BOARD OF SUPERVISORS

## Tuesday Agenda Memorandum

**Item Type & Title:** Resolution approving agreement between Polk County, Drake University Law School and the Fifth Judicial District.

**Agenda Date:** December 30, 2008

**Contact Individual:** Sue Elliott, Project Manager  
Board of Supervisors  
286-3128

**Previous Action taken by the Board:** N/A

**Board/Commission Actions:** N/A

**Action Requested (Recommended):** Approves agreement between Polk County, Drake University Law School and the Fifth Judicial District for the use of a courtroom at Drake University Law School's Neal and Bea Smith Law Center.

**Comply with Policy:** Yes

**Background:** The Fifth Judicial District of Iowa has expressed that there is an occasional need for additional courtroom space which can be accommodated through the use of the courtroom at Drake University Law School's Neal and Bea Smith Law Center. Drake University Law School is desirous of providing courtroom space on a limited basis at no cost to the Court or Polk County. The Board of Supervisors is responsible for providing suitable courtrooms for the district court pursuant to Iowa Code Section 602.1303(1)(a). All parties are agreeable to the attached memorandum of understanding providing for a four year extension of the previous agreement with the change in terms at no cost to the Court or Polk County. The Fifth Judicial District may schedule up to five trials per year, not to exceed twenty-five days annually, including the annual Trial Practicum effective January 1, 2009 through December 31, 2012.

**Action Impact:** None.

**Fiscal Note:**

Fiscal Year	Budget- ed? (Y/N)	Anticipated Expense	Anticipated Revenue	Ongoing Commitment? (Y/N)	If Amendment is Required,	
					Expense Account Code	Revenue Account Code
08/09	N					
09/10						
10/11						

**Additional Fiscal Note Information (optional):**